

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**ANASTASSIA KREZOUN,**

**Defendant.**

**Case No.: SACR 23-00042-CJC**

**ORDER DENYING DEFENDANT  
ANASTASSIA KREZOUN'S MOTION  
TO DISMISS COUNT ONE OF THE  
INDICTMENT [Dkt. 33]**

**I. INTRODUCTION**

In this case, Defendant Anastassia Krezoub is charged with one count of stalking in violation of 18 U.S.C. § 2261A(2)(B) and one count of extortion in violation of 18 U.S.C. § 875(d). (*See* Dkt. 18.) Now before the Court is Defendant's motion to dismiss

1 the stalking count of the indictment, bringing an as-applied challenge on First  
2 Amendment grounds. (*See* Dkt. 33.) For the following reasons, the motion is **DENIED**.<sup>1</sup>

## 3 4 **II. BACKGROUND**

5  
6 Defendant is alleged to have repeatedly harassed, threatened, and extorted a  
7 wealthy businessman from Southern California with whom she previously had some sort  
8 of romantic relationship. Specifically, as alleged in the indictment:

- 9 • On November 29, 2021, Defendant texted the victim and demanded that he  
10 take her shopping.
- 11 • Between November 29, 2021 and December 11, 2021, Defendant sent the  
12 victim *hundreds* of harassing texts that disparaged the victim and other  
13 individuals.
- 14 • On December 12 and December 14, 2021, after the victim *told Defendant to*  
15 *stop contacting him*, Defendant started to send harassing texts to the Victim  
16 from *three different phone numbers*.
- 17 • On December 14, 2021, Defendant texted the victim, stating, “You think I  
18 make scandals to men who treat me properly?” and “I’ll find your enemies  
19 and will be very friends with them.”
- 20 • On December 16, 2021, Defendant filed a police report accusing the victim  
21 of taking photos of her without her consent.
- 22 • On March 23, 2022, Defendant filed a second police report accusing the  
23 victim of another crime.

24  
25  
26  
27  
28 <sup>1</sup> Having read and considered the papers presented by the parties, the Court finds this matter appropriate  
for disposition without a hearing. *See* Fed. R. Crim. P. 57(b). Accordingly, the hearing set for  
November 28, 2023, at 1:00 p.m. is hereby vacated and off calendar.

- 1 • On June 29, 2022, Defendant texted the victim threats to injure another  
2 person and back-to-back text messages stating, “Get out of the building” and  
3 “Before it gets blown up LOL.”
- 4 • On June 30, 2022, Defendant texted the victim, stating, “Only thing that  
5 excite me is kick your ASS . . . . Burn your house in [city].”
- 6 • On August 31, 2022, Defendant sent the victim’s employer an email, titled  
7 “[Victim’s first and last name] | SEXUAL ASSAULT BATTERY,  
8 solicitation, audio depositions,” which contained screenshots of a police  
9 report Defendant filed against the victim.
- 10 • On September 11, 2022, Defendant sent the victim’s employer an email,  
11 titled “[victim’s first name] solicits to prostitution girls . . . .,” which  
12 contained screenshots of text messages between Defendant and the victim, a  
13 pornographic image of male genitalia, and a screenshot of a portion of the  
14 police report Defendant filed against the victim.
- 15 • On November 19, 2022, Defendant sent the victim’s employer an email,  
16 titled “[victim’s first name] LOVES ANAL AND \*\* POOP FETISHES,”  
17 which included a pornographic image of two men engaging in sexual  
18 activity.
- 19 • On December 3, 2022, Defendant texted the victim a message threatening  
20 his reputation, stating, “All of you will be embarrassed on fucking National  
21 TV . . . . CNBC, CNN, Bloomberg, Yahoo TV.”
- 22 • On January 12, 2023, Defendant sent the victim’s employer an email, titled  
23 “[victim’s first and last name] RAPED MY BRUTALLY.”
- 24 • On January 25, 2023, Defendant texted the victim a message demanding that  
25 the victim buy her luxury items or else he would face a “sex scandal at your  
26 kids graduation.”
- 27 • On February 8, 2023, Defendant texted the victim a message, stating,  
28 “Condo or I fuck up your life.”

- 1 • On February 14, 2023, Defendant texted the victim a message, stating, “I  
2 want \$1M minimum of gifts. Or i fuck the shit off you embarrassing the  
3 fuck out of your ass.”
- 4 • On March 1, 2023, Defendant texted the victim a message, stating, “I want a  
5 condo. If I file a lawsuit against you, you will never work anywhere. . . . Not  
6 even McDonald’s would hire you.”
- 7 • On March 4, 2023, Defendant texted the victim a message, stating, “I’m  
8 better than a Porsche, give more. Spend more on me than on a car fucker.  
9 Or I fuck the shit out of your life. I’m not kidding you at all.”
- 10 • On or about March 16, 2023, Defendant sent the victim a text message,  
11 stating, “You want another round of emails at [victim’s employer]? . . . .  
12 How did it go at [victim’s employer] when they received the emails? Would  
13 have LOVED to see your face.”

14 (Dkt. 18 at 2–4.) Based on these allegations, the government charges that Defendant,  
15 “with the intent to harass and intimidate the Victim, used an interactive computer service,  
16 an electronic communication service, an electronic communication system of interstate  
17 commerce, and other facilities of interstate and foreign commerce, namely email,  
18 interstate wires, and the Internet, to engage in a course of conduct . . . that caused,  
19 attempted to cause, and would reasonably be expected to cause substantial emotional  
20 distress to the victim.” (*Id.* at 1–2.) The government also charges that Defendant  
21 “knowingly and with the intent to extort money and other things of value from the  
22 Victim, transmitted in interstate commerce communications that contained a true threat to  
23 injure the reputation of the Victim and other individual, that is, [Defendant] threatened to  
24 distribute sensitive and harmful information about the Victim and other individuals, and  
25 [Defendant] threatened to accuse the Victim of a crime, if the Victim did not transfer  
26 money or other things of value to [Defendant].” (*Id.* at 5–6.)

### 1 III. LEGAL STANDARD

2  
3 Federal Rule of Criminal Procedure 12(b)(1) allows parties to “raise by pretrial  
4 motion any defense, objection, or request that the court can determine without a trial on  
5 the merits.” “Jurisdictional claims permitted under Rule 12(b) include allegations that  
6 the applicable statute is unconstitutional.” *United States v. Kahlon*, 38 F.3d 467, 469 (9th  
7 Cir. 1994) (internal quotation marks and citation omitted). Generally, in ruling on a  
8 defendant’s pretrial motion to dismiss, the Court “must presume the truth of the  
9 allegations in the charging instruments.” *United States v. Jensen*, 93 F.3d 667, 669 (9th  
10 Cir. 1996). “A motion to dismiss the indictment cannot be used as a device for a  
11 summary trial of the evidence.” *United States v. Boren*, 278 F.3d 911, 914 (9th Cir.  
12 2002).

### 14 IV. DISCUSSION

15  
16 Defendant brings an as applied First Amendment challenge to 18 U.S.C.  
17 § 2261A(2)(B), arguing the first count of the indictment “lists nineteen alleged statements  
18 by [Defendant]—specifically, text messages, emails, and police reports—comprising the  
19 statutorily required ‘course of conduct’ under Section 2261A(2)(B), all of which are  
20 protected speech.” (Dkt. 33 at 3.) The Court disagrees.

21  
22 As an initial matter, the indictment does far more than list 19 alleged statements as  
23 the basis for the required course of conduct.<sup>2</sup> It alleges that Defendant sent *hundreds* of  
24

---

25 <sup>2</sup> The parties dispute whether the Court may consider evidence outside of the indictment. (See Dkt. 41 at  
26 10; Dkt. 45 at 1–4.) The government urges the Court to look at additional messages between Defendant  
27 and the victim, while Defendant asserts the Court is limited only to the specific allegations in the  
28 indictment. Because “Count 1 as articulated in the indictment satisf[ies] the First Amendment,” the  
Court need not resolve the issue of extrinsic evidence at this time. (See Dkt. 45 at 4 [“The question  
before this Court is straightforward: does Count 1 as articulated in the indictment satisfy the First  
Amendment?”].)

1 messages and continued to send messages *after* the victim asked Defendant to stop  
2 contacting him, in part by using three other phone numbers to continue to harass and  
3 extort the victim. Putting aside any of the communicative aspects of the messages, the  
4 frequency of the text messages alone could be considered “harassing due to their sheer  
5 number and frequency.” *United States v. Osinger*, 753 F.3d 939, 954 (9th Cir. 2014)  
6 (Watford, J., concurring).

7  
8 More importantly, Defendant’s speech, as alleged in the indictment, lacks First  
9 Amendment protection because her alleged speech was integral to her alleged extortion  
10 of the victim. Speech integral to criminal conduct is not protected by the First  
11 Amendment. *Id.* at 946. Extortion is indisputably a crime (one charged in this case), and  
12 Defendant does not challenge the sufficiency of the extortion count, (*see* Dkt. 45 at 7  
13 [“Ms. Krezoub’s motion challenges only Count 1, not the extortion charged in Count 2.”]).

14  
15 Defendant argues against this conclusion by claiming “[t]his conflates the two  
16 counts charged in the indictment” and the “only authority on this point is an Eighth  
17 Circuit case decided after the defendant was convicted at trial of both extortion and  
18 stalking.” (Dkt. 45 at 7 [referencing *United States v. Petrovic*, 701 F.3d 849 (8th Cir.  
19 2012.) Defendant attempts to distinguish the Eighth Circuit case because Defendant “has  
20 not been convicted of extortion” and “while it may make sense to take a broad view of a  
21 case after trial, including considering all charges against a defendant, the same does not  
22 apply to a pre-trial motion to dismiss aimed at only a portion of the indictment.” (*Id.* at  
23 8.) Defendant’s arguments are not persuasive.

24  
25 First, at this early juncture, the fact that the government separately charged  
26 extortion does not impact the First Amendment analysis as to the stalking count. As  
27 alleged, Defendant’s speech loses its First Amendment protection because it is speech  
28 integral to criminal conduct, namely, extortion. From there, the government is free to

1 allege that the course of conduct arising from the same speech is also stalking because it  
 2 satisfies the necessary elements of that crime. Confirming the permissibility of relying  
 3 on the crime of extortion as the basis to find speech integral to criminal conduct, the  
 4 Ninth Circuit has specifically recognized “extortionate threats” as an example of criminal  
 5 conduct sufficient for speech to lose First Amendment protection such that the speech  
 6 may also be the basis for a stalking conviction. *Osinger*, 753 F.3d at 947.<sup>3</sup>

7  
 8 Second, contrary to Defendant’s argument, there is no requirement in ruling on a  
 9 motion to dismiss a count of the indictment that she be convicted of extortion before her  
 10 speech can be deemed integral to that crime and therefore not subject to First Amendment  
 11 protection. In *United States v. Hobgood*, the defendant argued that because “he was not  
 12 charged with or *convicted* of extortion . . . it was improper for the district court to deem  
 13 his speech integral to that crime.” *United States v. Hobgood*, 868 F.3d 744, 747 (8th Cir.  
 14 2017) (emphasis added). The Eight Circuit disagreed, explaining that even though the  
 15 defendant was not charged with or convicted of extortion, “[i]nsofar as the interstate  
 16 stalking statute overlaps with the extortion statute, the court may consider that  
 17 circumstance in determining whether the speech is protected.” *Id.* at 747. If Defendant is  
 18 ultimately convicted of stalking but *not* extortion, and “there is no other identified  
 19 criminal conduct to which the jury could have found that [Defendant’s] . . .  
 20 communications were integral,” then Defendant may re-raise her argument at the  
 21 appropriate time.<sup>4</sup> See *United States v. Sryniawski*, 48 F.4th 583, 588 (8th Cir. 2022).

22  
 23 <sup>3</sup> While the stalking statute has been amended since *Osinger* was decided, the changes are not relevant to  
 24 this analysis. See *United States v. Crawford*, 2023 WL 1099753, at \*2 (W.D. Wash. Jan. 30, 2023)  
 25 (“The Court acknowledges that 18 U.S.C. § 2261A(2)(B) has been amended since *Osinger* was decided.  
 26 But the amendments do not add or change language pertaining to the acts proscribed by the statute.  
 27 Therefore, *Osinger*’s holding that the statute targets conduct and not speech is binding. The Court  
 28 therefore concludes that 18 U.S.C. § 2261A(2)(B) targets conduct and not speech.”).

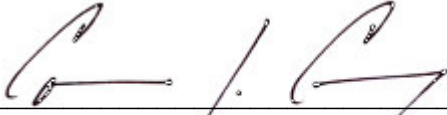
<sup>4</sup> Of course, were the jury to conclude Defendant made true threats during her alleged course of conduct  
 underlying the stalking charge, the jury could still rightfully convict Defendant. See *United States v.*  
*Fleury*, 20 F.4th 1353, 1369–70 (11th Cir. 2021) (discussing stalking and true threat jury instruction).  
 Depending on the context, a jury could arguably find that Defendant’s alleged texts saying “Get out of  
 the building” and “Before it gets blown up LOL” were true threats. See *United States v. Weiss*, 2021

Looking solely at the government’s allegations, the alleged speech does not fall under the protections of the First Amendment. It was integral to Defendant’s alleged extortion of the victim. The reach of the First Amendment is long, and the law is not always a model of clarity. But in this case, wherever the line may be, Defendant’s alleged speech is clearly not protected by the First Amendment.

## V. CONCLUSION

Defendant’s motion to dismiss count one of the indictment is **DENIED**.

DATED: November 20, 2023

  
CORMAC J. CARNEY  
UNITED STATES DISTRICT JUDGE

WL 6116629, at \*3 (9th Cir. Dec. 27, 2021) (“[A] reasonable jury could find that [the defendant’s] message was a true threat and not entitled to First Amendment protection. Therefore, we reverse the district court’s dismissal of the indictment and remand for further proceedings.”). This is particularly true in light of the additional evidence submitted by the government, which includes very specific, graphic threats aimed at the victim and his family. (See Dkt. at 20 [collecting evidence].)